

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Viraj Dass, #12221-041,)	
)	C/A No. 4:11-0352-MBS
Plaintiff,)	
)	
vs.)	ORDER
)	
John Doe No. 1, Physician; Thomas)	
Webster, Medical Doctor; Joe Williams,)	
Physician Assistant; R.V. Veach, Warden;)	
John Doe No. 2, Physician; John Doe No. 3,)	
Counselor; Aruanava Saha, Mid Level)	
Practitioner; L. Fuertes-Rosario, Health)	
Serv. Admin.; J. Matterson, Med. Record)	
Tech.; Valerie Smith, Physicians Assistant;)	
Hector Lopez, Medical Doctor; Mary)	
Mitchell, Warden,)	
)	
Defendants.)	
_____)	

At the time of the underlying events, Plaintiff Viraj Dass was in custody of the Federal Bureau of Prisons. He was housed at FCI-Edgefield in Edgefield, South Carolina. Plaintiff, proceeding pro se, filed a complaint on February 16, 2011, alleging that he was denied adequate medical care in violation of his constitutional rights. Plaintiff brings this action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403, U.S. 388 (1971). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling.

On June 14, 2012, the named Defendants filed a motion for summary judgment. On June 18, 2012, in accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedures and the possible consequences of failing to respond adequately. Plaintiff filed no response to Defendant's motion for summary judgment. Therefore,

on August 2, 2012, the Magistrate Judge filed a Report and Recommendation in which he recommended that the complaint be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. The complaint is dismissed with prejudice pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina

August 30, 2012

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.